

**The San Francisco
Task Force on Prostitution**

Final Report

Submitted to the Board of Supervisors
of the
City and County of San Francisco, California
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Executive Summary

Prostitution has always existed in San Francisco, as it has in every city, small or large. Indeed, prostitution is part of San Francisco's romanticized past: Prostitutes as well as sailors and pirates and gold speculators made up the Barbary Coast, a part of San Francisco history which we prize today. Local lore has it that many of the small streets and alleys South of Market were actually named for some of the City's most famous prostitutes.

Perceptions of modern prostitution, however, far from glamorizing it, bemoan it as one of the chronic problems of the inner city. Just as the Barbary Coast is part myth, part exaggeration and part fact, modern perception of prostitution combines myth, exaggeration and fact. In order to separate fact from fallacy, the San Francisco Board of Supervisors chartered the San Francisco Task Force on Prostitution in March of 1994, through a resolution introduced by Supervisor Terence Hallinan.

The Task Force was charged with investigating prostitution patterns and practices in the City, as well as current social and legal responses. It was further requested to recommend social and legal reforms which would best respond to the City's needs while using City resources more efficiently.

The Task Force met for a year and a half. It maintained four standing committees: Health, Safety and Services; Legal and Fiscal Impact; Neighborhood Issues; and Research. The committees and the Task Force as a whole received documents, heard testimony and sought input from every concerned constituency in the City: Business leaders, neighborhood activists, prostitute advocates, current and former prostitutes, clients, police, prosecutors and defense attorneys, health professionals, international scholars and at-large representatives. As expected with

such a complex and potentially volatile issue, the Task Force could not reach consensus on every issue. Its recommendations represent the best efforts of all concerned to balance competing concerns.

The Task Force concluded that prostitution is not a monolithic institution. Although the majority of sex workers are women, it encompasses people of all genders working in the pornographic media industry, live theater, massage parlors, bordellos and through print advertising, as well as the street workers most commonly envisioned when the word "prostitution" is mentioned. Because it is such a varied industry, the City's responses must vary as well.

The Task Force discovered that the complaints leveled against prostitution really apply only to a fraction of the total industry and that those legitimate concerns are not being met by efficient and effective solutions. Yet not only are current responses ineffective, they are also harmful. They marginalize and victimize prostitutes, making it more difficult for those who want out to get out of the industry and more difficult for those who remain in prostitution to claim their civil and human rights.

The Task Force hopes that these recommendations will be met with the same spirit of thoughtful inquiry that went into framing them. The members also hope that the City will continue the dialogue which the Task Force has begun. An issue as complex as this one cannot hope to be resolved in the short time we have had.

Summary of Recommendations

In San Francisco, the current institutional perspective on prostitution can be summed up in one word: prosecution. Most health and social services are secondary to, or intertwined with, the enforcement and prosecution of soliciting crimes. Moreover, this approach is directed almost entirely at street prostitution,

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which is estimated to comprise only 10-20% of prostitution in the City.¹ Although the arrest and prosecution of soliciting crimes has increased dramatically over the last few years,² the incidence of street prostitution shows no signs of subsiding, and neighborhood activists and business groups have become more and more vocal about the problems they perceive that street prostitution causes.³

It is no coincidence that the rise in enforcement and prosecution of soliciting crimes comes at the same time that the City budget for social services has been cut more drastically than at any time in the City's history.⁴ Unfortunately the rise in enforcement also seems to coincide with rising complaints against police officers of brutality and deprivation of civil rights.⁵ Moreover, the City Attorney has concluded that many of the anti-prostitution laws on the City's books are unconstitutional.

The Task Force concludes that the current prosecutorial response does a great deal of harm but little good. It has not solved the quality of life concerns voiced by neighborhood residents; it has cost the City millions of dollars; it deprives residents

¹ Delacoste, Frederique and Priscilla Alexander 1987
Sex Work. Pittsburgh: Cleis Press, page 189

² See Appendix D. San Francisco Police Department Arrest Reports, January to December 1994. On file with the Police Department. Adults and Juveniles Arrested by Race and Sex; Prostitution-Related Arrests in comparison with other Part II crimes.

³ Weitzer, Ronald. Spring 1995. "New Conflicts Over The Oldest Profession"
Gray Areas, page 52

⁴ Governor Wilson's proposed budget for fiscal year 1996-97 eliminates Medi-Cal for drug related disabilities and drastically reduces grants to families on Aids to Families with Dependent Children (AFDC). The effects of both these budget cuts will severely impact local governments across the state; in San Francisco cuts will impose new burdens on social services that are already competing for resources. Also, "Federal Budget Impact On San Francisco." September 20, 1995. Controller's Office, Presented to Board of Supervisors, Budget Committee

⁵ "Police Misconduct Report" On file with the San Francisco Board of Supervisors, submitted for the 'Hearing on Office of Citizen Complaints Reform', 1995. See Appendix D.: Law and Law Enforcement: Testimony. Also, Yvonne Dotson Vs. Yee, September 1995 prepared by Fania Davis, attorney for Yvonne Dotson, in accordance with settlement against San Francisco in which Federal Court Judge Marilyn Patel of the Ninth Circuit Court directed Dotson to submit recommendations for the Police Department that address police misconduct.

of positive services which would ameliorate the problems. Moreover, City residents overwhelmingly oppose enforcement and prosecution of prostitution crimes.⁶

The Task Force therefore recommends that the City departments stop enforcing and prosecuting prostitution crimes. It further recommends that the departments instead focus on the quality of life infractions about which neighborhoods complain and redirect funds from prosecution, public defense, court time, legal system overhead and incarceration towards services and alternatives for needy constituencies.⁷

These recommendations are expanded upon in the report along with recommendations about Health Services, Youth, Immigration; Labor Policy and Issues; and Implementation of Recommendations. Finally, the Task Force recommends that the City maintain a working group on prostitution to oversee implementation and use the City's dispute resolution resources to engender greater communication among neighborhood and business concerns and prostitute representatives.

⁶ On December 7, 1993, the San Francisco Examiner reported that, in a telephone poll based on over 10,000 calls from Examiner readers, 85% supported legalization of prostitution.

⁷ The Task Force considered other options for controlling prostitution, such as zoning and state-sponsored brothels. These options are not feasible for the city at present because the City cannot create laws which conflict with laws on prostitution. For this and other reasons, the other options do not meet the city's needs. For discussions of regulatory options, see Appendix D.: Law and Law Enforcement: Decriminalization and Regulation.
Also,
Section IX. Minority Opinions

I. Laws and Law Enforcement

Most laws against prostitution activities are written by the State Legislature. These are the misdemeanors and felonies most used against alleged prostitutes. The penalties include sentences of up to six months in jail for misdemeanors and state prison terms of 16 months to eight years for felonies. Because these laws were written in Sacramento, San Francisco does not have the power unilaterally to change them. Because of these same laws, the City may not unilaterally legalize or decriminalize prostitution.

The San Francisco Municipal Police Code also contains some ordinances against prostitution. Many of these duplicate state laws. Others are patently vague and archaically written. The City Attorney has concluded that most of the San Francisco ordinances are unconstitutional and should be repealed.⁸ Nevertheless, these ordinances occasionally are used to arrest suspected prostitutes, though they are usually discharged before they ever make it to court.⁹ The reality is that enforcement and prosecution of these laws merely creates a revolving door in the criminal justice system.

The San Francisco Police Department does not consistently enforce laws against any sex workers except the most visible, those working on the street, and those most vulnerable, including African American, transgender, and immigrant women.¹⁰ Most people arrested spend no more than a weekend in jail before being

⁸ See Appendix C. The City Attorney was asked for an opinion on Municipal Code Sections 215 - 248. The City Attorney determined that these codes are unconstitutional. Based on this information, the Task Force recommends that they be repealed by the Board of Supervisors.

⁹ See Appendix D.: Law and Law Enforcement: City and County of San Francisco Court Management Report, #4344. *and* Constitutionality of police sweeps and problems faced by persons arrested for Municipal Police Code violations.

¹⁰ See Appendix D. Law and Law Enforcement: San Francisco Police Department Arrest Reports, January to December 1994. On file with the Police Department. Adults and Juveniles Arrested by Race and Sex; Prostitution-Related Arrests in comparison with other Part II crimes.
Also,

released. Though enforcement may increase, there is no evidence that it does any more than force street workers to move from one place to the next.¹¹ The Task Force concluded that prosecution of prostitution has exacerbated problems in the industry including violence and chemical dependency, while enforcement further marginalizes prostitutes.

The Task Force heard evidence that prostitutes are afraid to call the police when they are crime victims, for fear of being arrested themselves. Once a person gets a rap sheet as a known prostitute, she/he may be trapped and stigmatized for life, and may be unable to pursue other jobs.

As noted in the Quality of Life section, enforcement of these laws does not solve neighborhood concerns. The Task Force findings indicate that decriminalization of prostitution could eventually reduce street prostitution and would enable the city to address the problems of the vulnerable populations who are currently part of the street economy.¹²

Adequate state and local laws already exist to respond when noise, trespassing and littering are problems. These infractions are punishable by fines, not by incarceration. Since they cannot be jailed upon conviction, people charged with these infractions do not have the right to a jury trial or an attorney. Since they are handled in traffic court, prosecution, defense and Sheriff's resources are not needed. Failure to pay fines is a criminal offense, however; those who refuse to pay

Special Investigations Bureau, Vice Crimes Division, Monthly Report, December 1994.

Also,

"Police Abuse of Prostitutes and Office of Citizen Complaints Reform," Documents submitted at OCC reform hearings. See Appendix D.: Laws and Law Enforcement.

¹¹ Kerr, Courtney, March 1994. "Geographical Study of Prostitution in San Francisco"
Journal of Urban Studies pages 30 - 35.

¹² Ibid.

their fines may be prosecuted. Infractions are therefore a more cost-effective enforcement option than misdemeanors and felonies.

Under no circumstance, however, should these infractions be used to harass suspected prostitutes. Harassment and abuse of suspected prostitutes is a serious problem in the San Francisco Police Department which is only recently coming to light.¹³ The very methods of enforcement encourage abuse: police officers pose as prospective clients and try to get suspects to say the words that will get them arrested. The police are most successful who most convincingly behave like clients. Many women complain of vice officers fondling them or exposing themselves before arresting them. These women refuse to report abusive officers because they fear retaliation or that they will not be believed.

Despite the difficulty of uncovering and uprooting abuse, in 1994 a police officer was arrested for forcing a massage parlor worker to orally copulate him;¹⁴ and the City paid \$85,000 in damages to a registered nurse who was falsely arrested and held when the officers suspected her of being a prostitute. In the course of that litigation, Federal District Court Judge Marilyn Hall Patel recommended that the U.S. attorney's Office investigate the arresting officers for perjury during their testimony.¹⁵

¹³ Arrest statistics clearly indicate discrimination in prostitution arrests based on gender, since only a small percentage of those arrested are male, although the large majority of participants in prostitution are male. Police also discriminate against street prostitutes although they represent the smallest sector of prostitutes. Based on Task Force testimony, African American, Transgender and immigrant women are specifically targeted in cases of harassment and other abuse.

¹⁴ Opatry, Dennis J. March 24, 1994. "Police Officer Charged with Kidnapping with Intent to Rape" and "San Francisco Cops Expand Probe in Sex Case"
San Francisco Examiner

¹⁵ Yvonne Dotson Vs. Yee, September 1995 prepared by Fania Davis, attorney for Yvonne Dotson, in accordance with settlement against San Francisco in which Federal Court Judge Marilyn Patel of the Ninth Circuit Court directed Dotson to submit recommendations for the Police Department that address police misconduct..

Law enforcement policy also affects public health policy. This issue is discussed in the Health, Safety and Services section but one particular law should be highlighted here. State law requires that anyone convicted of soliciting prostitution be tested for HIV infection. The results are kept on file in Sacramento; if a person is rearrested for soliciting, any District Attorney may learn their results. If the person was HIV positive at the time of the previous conviction, the new charge is elevated to a felony. The person charged faces state prison for offering or agreeing to perform a sex act for money. The law does not distinguish between offers of safe sex and offers of unsafe sex.¹⁶ Civil libertarians and AIDS activists point out that this law stigmatizes a group of people for their immunodeficiency status, without any evidence that they are actually causing harm.¹⁷

Moreover, the forced testing law assumes that prostitutes represent a threat to public health. There is no evidence that sex workers as a group have greater incidence of HIV infection than the general population or that they spread HIV disease. In fact, evidence shows that San Francisco sex workers are highly educated about safe sex.¹⁸

Completely contrary to the policy of improving public health, the San Francisco Police Department had a policy of confiscating condoms from people arrested for prostitution-related offenses. Many of the condoms taken had been given to street workers by the City Department of Health. Further, if a person charged with soliciting prostitution had condoms when arrested, the District

¹⁶ See Appendix B. Existing Laws: Penal Code section 1202.6

¹⁷ O'Leary, Ann and Loretta Sweet Jemmott editors. 1995. Women and AIDS: The Emerging Epidemic. New York: Plenum Publishing Corp.
See chapter by: Cohen, Judith Black and Priscilla Alexander. "Female Sex Workers: Scapegoats in the AIDS Epidemic".
Also, Alexander, Priscilla. No. 3. 1993. "HIV/AIDS Surveillance Report"
World Health Organization pages 7 and 11

¹⁸ Ibid.

Attorney's office used the condoms as evidence against them in court. The Task Force unanimously passed a resolution condemning the Police and the District Attorney's actions. (See Appendix D.: Laws and Enforcement) Under pressure, the District Attorney promised to stop using condoms as evidence. Nevertheless, some police officers are still acting in contradiction to the policy. At this time, Senator Milton Marks is sponsoring legislation which would prohibit District Attorneys from using condoms as evidence of prostitution-related activities.¹⁹

The following recommendations address immediate shifts in priorities within the current legal framework as well long term goals.

I. Repeal the unconstitutional Municipal Police Codes-- sections 215 through 248-- in accord with recommendations by the City Attorney.²⁰

II. Immediately stop enforcing and prosecuting misdemeanor and felony laws. Dismiss all current prosecutions in order to begin immediately reallocating resources.

III. Respond directly to complaints of excessive noise, littering and trespassing by enforcing ordinances specific to those complaints.²¹ The police should not use any laws to harass suspected prostitutes.²² (See Appendix B. For State Laws and Municipal Codes.)

¹⁹ Celia McGuinness, San Francisco Office of the Public Defender, personal communication.

²⁰ See Appendix C.: Response by City Officials. The City Attorney was asked for an opinion on Municipal Code Sections 215 - 248. The City Attorney determined that these codes are unconstitutional.

²¹ In this way police can target the unwanted activity without harassing a specific class of people. The logic behind this dual strategy is to adopt the most cost effective way of addressing problems in the streets while supporting alternatives that will reduce reliance upon prostitution to earn a living. This will mean an immediate decrease in criminal proceedings and will allow the re-direction of resources to programs that are enumerated in the Health, Safety and Services Section of the Report.

²² See Appendix D.: Law and Law Enforcement. Municipal Codes relating to public disturbances should not be used to target any population including homeless people or prostitutes. When fines are disproportionate or excessive, prostitutes may work additional hours to pay the fines. Such a structure can defeat the potential for efficient allocation of city resources away from expensive criminal prosecutions,

IV. Vigorously enforce laws against coercion, blackmail, kidnapping, restraining individual's freedom of movement, fraud, rape and violence regardless of the victim's status as a sex worker.²³

V. Redirect resources currently allocated to police investigation, incarceration, prosecution and defense of sex workers to augment resources for housing, outreach and other services for these populations. (See Health, Safety and Services Recommendations.)

VI. Curtail expenditures for Police investigation of prostitution venues where there are no accompanying complaints, including hotels, cafes and bars.²⁴

VII. Remove authority for the licensing of massage parlors, masseuses and masseurs and escort services from the Vice Crime Division's

thwart a policy of reducing street solicitation and can result in a breach of civil rights. According to reports submitted by Task Force representative Rachel West (US PROS), "The current prostitution laws are enforced disproportionately against sectors discriminated against as a result of their race, sexual orientation, national origin, and/or economic background. Illegal arrests and harassment are common."

Also,

Section IX. Minority Opinions

²³ See Appendix B.: Existing Laws Laws that are intended to punish pimps and traffickers (266 h & i) are often used against prostitutes working together to protect themselves (see Appendix D.: Law and Law Enforcement: Testimony) and against women such as Heidi Fleiss, a well-publicized example. Although the current laws that were intended to deal with coercion and other abuse of prostitutes are not effective against the abusers, existing laws against violence and abuse could readily be used to prosecute abusive pimps. Enforcement of laws against violence and other abuse should supplant current laws prohibiting pimping, (living off the earnings of prostitution) and pandering (encouraging prostitution). Also, the Health, Safety and Services, and Implementation sections which recommend supportive and confidential means through which violence against sex workers can be effectively abated.

Also,

Keough, Caroline, "Prostitutes Raped with Impunity," 1995.

San Francisco Examiner November 26, 1995.

²⁴ San Francisco Municipal Code 241, prohibits persons of "lewd or immoral character from loitering in places of business."

jurisdiction and place it with agencies already qualified to grant other standard business licenses.²⁵

VIII. Provide training and circulate directives to Police Department and Sheriff's Department personnel to eliminate harassment and abuse of prostitutes by law enforcement personnel.

IX. Provide training to improve the ability of the District Attorney's office to successfully prosecute cases of rape and other assault in which prostitutes and other sex workers are the victims.

X. Authorize city lobbyists to identify legislators who will commit to carrying legislation towards the following goals.: (See Appendix B. For State Laws and Municipal Codes.)

o Repeal state laws that criminalize engaging in, agreeing to or soliciting prostitution, or laws and policies which can be interpreted to deny freedom of travel, and the right to privacy to prostitutes.

o Repeal state laws which can be interpreted to deny freedom of association, or which criminalize prostitutes who work together for safety.²⁶

²⁵ See Appendix D: Law and Law Enforcement: Massage Licenses. Currently, the Police Department licenses massage and escort businesses. According to a memo by Police Chief Ribera in response to an inquiry as to why licensing can not be transferred to another City agency, "The high propensity for vice related activities, i.e., prostitution, pimping and pandering requires the Department to monitor the activities of suspect masseuses and masseurs and massage establishment operators. While violations of law detected by the Police Department may be criminally prosecuted, the advantage of being the permitting authority grants the Department the ability to administratively review and discipline offenders." The Task Force Legal Committee reviewed this policy and found that this dual jurisdiction represents a conflict of interest and promotes corruption in the police department. Police are never responsible for "disciplining" violators of the law, the Courts are. Moreover Ribera's argument is specious in light of the over \$127,000 a year accrued in licensing fees.

²⁶ There was testimony from prostitutes in San Francisco (and from prostitutes' organizations in other countries) that laws against the 'living off the earnings of prostitution' are often used against families of prostitutes, and against prostitutes working together in various business arrangements. These laws inhibit organization for self-protection and criminalize consensual personal relationships, and numerous other aspects of prostitutes' lives. See Legal Recommendation IV.

o Repeal mandatory HIV testing and felony enhancements of HIV+ prostitutes.

o Repeal minimum mandatory sentencing laws for second and subsequent convictions.²⁷

Currently, and as long as there are people accused and convicted of prostitution-related offenses in our jails, the Task Force recommends the following:

XI. Conduct a study of the accessibility and relevance of services in the city and county jails, and the juvenile detention center, to individuals involved in the sex industry.

XII. Develop peer based pre-release planning programs relevant to prostitutes to connect them to social service programs that respond to their specific needs, including sex worker's rights organizations, as well as other programs that help them obtain housing, jobs, clothes, child custody and child care, health care and other post-release needs they have.

XIII. Formulate a pro-active policy within the Sheriff's department, that persons brought in on charges related to prostitution should not be excluded from citation release programs.²⁸

Also,
See Appendix D: Law and Law Enforcement: Testimony.

²⁷ Senator Milton Marks is presently sponsoring legislation to repeal the minimum mandatory sentencing laws related to conviction for 647(b).

²⁸ According to staff persons at the Center for Juvenile and Criminal Justice, police would issue orders not to release people who had been arrested on prostitution related charges. One staff person recalled that at one point all the women incarcerated on one day were documented as prostitution-related arrests.

II. Costs of Prostitution Law Enforcement in San Francisco 1994

Defining the monetary cost of enforcing prostitution laws in San Francisco is difficult. None of the city departments and agencies with responsibility for dealing with prostitution have been able to segregate their prostitution enforcement costs from their overall budgets. Because the departments previously have seen no need to assign time, material, and overhead costs to such a specific program function, the city is left in the posture of not knowing how much prostitution enforcement costs or whether it is an effective application of resources.

The Task Force has made the best estimate possible, based on the Departments' own projections. (See Appendix D.: Law and Law Enforcement). None of the agencies were able to provide a definitive measurement of the amount of time and money spent to combat prostitution, or otherwise deal with its consequences. We have made informed approximations when necessary. We believe the actual costs may be even higher than the numbers cited here.

Police Costs

The Police Department acts as a gatekeeper for enforcing prostitution laws; its decisions on deployment of its resources subsequently obligate all other branches of the system to expend their resources as well. Currently, the Vice Crimes Division has primary responsibility for prostitution enforcement, augmented by patrol resources and special units such as the Tenderloin Task Force.

The Vice Department comprises 12 police officers who devote the majority of their time and resources to prostitution abatement and the remainder to gambling.

It also investigates any felonies committed by prostitutes. In 1994, there were 17 felony prostitution arrests made by the Vice Crimes Division.²⁹

Vice Crimes Division personnel costs	\$815,452.00³⁰
Vice Crimes Division vehicle costs	\$ 8,000.00

While the Department could not report specifically how much it expends on prostitution abatement, there may be additional Vice Crimes Division costs not included in these two figures. General overhead expenses such as materials, light, heat, telephones, furniture and the like are aggregated in a different part of the police budget.

Regular patrol officers at district stations supplement the Vice Division efforts. The Police Department did not provide any estimate of how much time and resources the uniformed patrol function applies to prostitution abatement. It should be noted that the patrol portion of the abatement effort often does not result in an arrest, but nevertheless consumes time, as patrol officers stop to conduct field interrogations of suspected loiterers or respond to complaints about prostitution activity.

In a more regularized fashion, the Tenderloin Task Force has been conducting periodic "sweeps" of suspected prostitutes and drug sellers in the downtown core. The Chief of Police did not provide any accounting of the costs associated with these sweeps, in which uniformed officers patrol the downtown core in search of suspected prostitutes, arresting them under Penal Code section 372 which prohibits "public nuisance." In past years these sweeps have occurred as often as several

²⁹ Special Investigations Bureau, Vice Crimes Division Monthly Report December 1994.

³⁰ See Appendix C.: Response of city officials to requests for information. Letter to Supervisors from Police Chief Anthony D. Ribera, November 17, 1994. The Department made 5,269 prostitution related arrests in 1994.

times a week, resulting numerous arrests each night.³¹ Presently there are about 60 officers assigned to the Tenderloin Task Force, along with their equipment and overhead. Based on an average salary/benefit cost of **\$54,500** per officer, this Task Force costs approximately \$3.2 million annually.³² The Tenderloin Task Force spends a significant portion their time and resources on prostitution abatement, so that estimated costs of related activities of this special unit amount to approximately **\$1.3 million**.

One other potentially significant expense is not included in our estimates. Arresting officers are paid overtime while awaiting court proceedings if they would otherwise not be on duty. Since most Vice officers work nights, the overtime costs may be significant. In addition, officers assigned to other departments work in Vice during their 'overtime' hours.³³

Initial Incarceration Costs

Once a prostitute has been arrested, the City incurs new expenses on incarceration, pending an initial court appearance. Many are held in custody and some may spend the weekend in jail before being released, usually because of past failures to appear.³⁴

³¹ Alison Riker, Center For Juvenile and Criminal Justice, personal communication.

³² Additional expenses include salaries for officers from district stations who provide back up for Vice Crimes activities in neighborhoods by performing field bookings or holding arrestees at the local stations and then transporting them to 850 Bryant Street. Periodic sweeps are also conducted in these neighborhoods, in which persons suspected of prostitution are arrested or cited on a number of public nuisance charges.

³³ These figures were not included in the budget provided by the Vice Crimes Division for this study. See Appendix C: Response of city officials to requests for information.

³⁴ Alison Riker, Center For Juvenile and Criminal Justice, personal communication.

The remainder spend between three and six hours in jail before being released. Each arrest requires booking, fingerprinting, computer checks and other processing before eligibility for release, all of which represent the more labor-intensive and therefore the most expensive aspect of the incarceration process.

Some persons arrested for prostitution crimes are not booked, but cited to appear at a later date. Those cited are not immediately booked, but must be fingerprinted and processed on their first court date. Those expenses are not included in our estimates.

Each day in jail costs approximately \$60 per inmate.³⁵ Short term incarceration costs and an educated projection of the above costs associated with booking, fingerprinting and processing on the first court date amount to approximately **\$312,000**.

Court Costs

Once an arrested person has been processed through the jail and released on either bail or a promise to appear, prostitution enforcement activity turns to the municipal court system. Of the 5,269 prostitution-related arrests in 1994, only 2,400 of these cases were taken to court.³⁶ In over half the cases the District Attorney chose not to press charges, most likely based on lack of evidence as well as budget considerations. "The courts are busy and the D.A.s don't have time," said one Municipal Court administrator, anonymously, when asked to explain this discrepancy. "The police are probably just harassing the people and hoping that they go someplace else..."

³⁵ Riker, Alison and McIntye. December 1993. "Beyond Shelter to Behind Bars"
Center for Juvenile and Criminal Justice Report.

³⁶ Jeff Brown, San Francisco Public Defender.

Those 2,400 cases that do go to court represent somewhat more than one-fourth of the Municipal Court's total case throughput of 8,000 cases a year. The city spends about \$8 million annually for operation of Municipal Courts.

The average prostitution court case requires five appearances: Arraignment; two or three pretrial conferences or disposition, dates; and a sentencing hearing upon conviction. Factors such as the complexity of the case, whether Pretrial Diversion is available, and other variables make it difficult to calculate precisely how much is spent on prostitution enforcement in the court system. It is estimated that such costs, including judicial salaries, clerks, bailiffs, courtroom overhead, etc., is approximately **\$2.5 million** annually.³⁷

Attorney Costs

The vast majority of those arrested and brought to court on prostitution-related charges are prosecuted and defended at public expense.

The cost for the District Attorney's office to prosecute these cases has been estimated at **\$750,000** annually.³⁸

The Public Defender's Office represents approximately 60 percent of those charged with prostitution. The cost to defend these cases is estimated at **\$500,000** annually.³⁹

³⁷ See Appendix C.: Response of city officials to requests for information. Letter to Supervisors from Diane Elan Wick, Presiding Municipal Court Judge. Cost figures for the Municipal Court system are based in part on figures and estimates provided to the Task Force by Municipal Court Clerks and lawyers practicing in the court.

³⁸ Although the D.A. did not provide current information, the estimate is based on similar expenses within the Public Defender's Office. Adjustments were made to account for the fact that while the D.A.'s office handles all prostitution cases, not all cases are similarly defended by the Public Defender, but rather some are handled by private counsel. In addition, the D.A.'s office employees are paid higher salaries than P.D.'s.

³⁹ Jeff Brown, San Francisco Public Defender.

Long term Incarceration Costs

There are an average of 45 people in jail after conviction for prostitution at any given time.⁴⁰ Calculation of the cost of long-term incarceration would require an analysis of variables such as the average length of sentence, multiplied by the daily cost per inmate of long-term incarceration. Most of those sentenced to jail terms serve 30 days to 90 days.

Based on the reported \$60 per day incarceration cost and the average daily number of prisoners serving prostitution-related sentences, it would appear that long term incarceration costs approximate **\$985,500** annually.

Additional Corrections Costs

In addition to short-term and long-term incarceration costs, the city expends funds administering probation, county parole, pre-trial diversion, and supervised recognizance programs for those arrested and/or convicted of prostitution that together cost approximately **\$100,000** annually.

Additional expenses not included in these figures are state incarceration, probation and parole expenses for persons who have been charged with prostitution-related parole violations in connection with former felony offenses.⁴¹

⁴⁰ In an interview in April 1994 with a representative from the Task Force, Raleigh Greenberg of Forensic AIDS Services, a division of the Sheriff's Department in conjunction with the Health Department, stated that 2% of the overall prison population are incarcerated on prostitution charges. The male and transgender prostitutes in jail are included in this 2% figure.

⁴¹ According to Task Force representative Carol Leigh, the county jail incarceration figures above do not include those who serve time in state prison for other (felony) offenses, who have also supported themselves through prostitution. Those who are discharged have few resources and often return to prostitution upon their release. Prostitution arrests (not necessarily convictions), or merely associating with prostitutes can be a parole violation, and they will be incarcerated in state prison, rather than county jail.

Forensic Health Programs

Under state law, those convicted of soliciting for prostitution are required to undergo mandatory HIV testing. This program is annually budgeted at **\$363,098.00**. Additionally, the chief epidemiologist is required to appear in Court and confirm the test results in each subsequent felony prosecution. Based on the figure of 17 felony prostitution arrests that year, taxpayers spent approximately **\$700.00** for the Epidemiologist's time.

Conclusion

The total costs accounted for in this report amounts to \$7,634,750.00. Given the many areas in which we found that information is not available, or there are hidden costs, the over all expense to the taxpayer exceeds **\$7.6 million** annually.⁴²

Despite the heavy emphasis on enforcement as a solution, the incidence of prostitution does not decrease over time. In 1991, there were 2, 518 prostitution related arrests; in 1992, 4,785; in 1993, 3,218 ; in, 1994, 5,269. Moreover, these policies are not eliminating problems articulated by the neighborhood residents.

⁴² Lynch, Theresa, and Neckes, Marilyn, December 1978

"The Cost Effectiveness Of Enforcing Prostitution Laws," Unitarian Service Committee p.17.

These figures do not include a variety of costs difficult to calculate such as social and other costs including family instability when mothers are incarcerated, and their children placed in custody; and loss of tax revenue which has been estimated at several millions dollars annually.

III. Health, Safety and Services

Health aspects of prostitution include issues of social, physical and mental health. Since various studies have established, for example, that men transmit HIV (and STDs) at a significantly higher rate than women, it is important to gear education and reform efforts towards members of the community as a whole, including male clients.⁴³

When assessing the health and social service needs of prostitutes, it is important to remember that prostitutes are varied in their experiences and needs. It is necessary to provide alternatives for those who wish to leave, as well as to improve working conditions and services for those who remain in the industry.

In addressing health safety and service issues for prostitutes, it is crucial to prioritize the needs of the most vulnerable individuals, who are at greater risk in terms of health and safety.⁴⁴ Economic development and services for low income and poor people in San Francisco improve conditions in the neighborhoods generally, with the long term effect of reducing prostitution that stems from poverty.

A number of recommendations specifically address the needs and issues of marginalized individuals and communities who are among those most adversely affected and those who experience discrimination in access to services. (See Appendix D: Health, Safety and Services: Needs Assessment)

⁴³ 34. O'Leary, Ann and Loretta Sweet Jemmott editors. 1995. Women and AIDS: The Emerging Epidemic. New York: Plenum Publishing Corp. See chapter by: Cohen, Judith Black and Priscilla Alexander. "Female Sex Workers: Scapegoats in the AIDS Epidemic"

⁴⁴ See Appendix D: Health, Safety and Services: Needs Assessments

The Task Force recommendations put forth the provision of services based on a harm reduction, rather than punishment-based model.⁴⁵

Health and The Law

In accordance with Legal Recommendation (V.), the Health, Safety and Services Committee recommends that the City direct efforts to repeal mandatory HIV testing of persons convicted of prostitution, as punitive treatment of HIV+ persons exacerbates marginalization and seriously increases health risks. (See Legal Recommendations)

Counseling regarding HIV prevention, transmission and risk reduction as well as voluntary anonymous or confidential testing, should be provided to all members of the community, including sex workers and clients. As a result of information provided by Task Force members, in June 1994, Terence Hallinan and Angela Alioto submitted legislation which was approved by the Board of Supervisors urging the Mayor, District Attorney and Chief of Police to "no longer confiscate and or alter or use the fact of condom possession for investigative or court evidence purposes." In September 1994, District Attorney Arlo Smith began a "six month trial period" to study the effects of this policy. In March of 1995, Smith announced that the District Attorney's Office would cease using condoms as evidence of prostitution.

The Task Force recommends the following:

⁴⁵ Sorge, Rod. Winter 1991. "Harm Reduction: A New Approach to Drug Services"
Health PAC Bulletin page 70.

Sorge defines a 'Harm Reduction' model as, "The recent expansion of an exclusively abstinence oriented service model to include the objective of helping users at any point on the continuum of drug taking behaviors to manage their addictions and their health".

I. Change current policy and modify current contracts to provide access to a full range of health services indicated for all residents, including drug treatment programs, without discrimination regarding sex work history or continuation in sex work during treatment.

II. Provide adequate resources for services to battered women, the homeless, youth, immigrants and refugees, and those needing rape crisis services regardless of whether they have a history of, or are currently working in prostitution.

III. With the revenues made available by eliminating budgets to enforce prostitution laws, support current and develop new peer-guided programs and services.⁴⁶ These should include outreach, including mobile outreach, drop-in centers and low threshold emergency and transitional housing. Programs should include occupational and educational programs, health and other programs for those who continue working as prostitutes, as well as those who wish to transition into other occupations including financial assistance to escape abusive and violent situations.⁴⁷

IV. Modify current contracts to finance AIDS prevention interventions targeted to clients of prostitutes- as well as those who identify themselves as "straight" men.

V. Provide in-service training to health and social service workers who work with prostitutes to increase sensitivity and accessibility of services.

⁴⁶ See Appendix D: Health, Safety and Service: Service Providers.

⁴⁷ Services must be provided with confidentiality so that sex workers can report violence, claim compensation, and receive assistance including health care, legal advice, etc., without fear of penalties, harassment, deportation or prosecution.

Drug Policy Recommendations

It is simplistic and unfounded to assume a direct correlation between prostitution and drug use, but it would also be a disservice to ignore substance issues which effect many people in San Francisco, including many prostitutes.⁴⁸

The Task Force recommends that the City of San Francisco explore options to restructure alcohol and drug use related policies and services as follows:

VI. Expand programs for needle exchange, and harm reduction programs, both street-based and site- based.⁴⁹

VII. Increase allocations for alcohol and drug-related treatment, including both residential and ambulatory programs for drug treatment, methadone maintenance, harm reduction and detox, to accommodate additional treatment slots for low income and homeless persons, and those engaged in prostitution.⁵⁰

VIII. Support the development of innovative approaches to addictions and treatment, including holistic modalities. Drug treatment must be available

⁴⁸ Representative Rachel West raised the concern that labeling prostitutes as drug addicts promotes stereotypes. West states that, "There is no evidence that prostitutes, in general, are any more chemically dependent than the rest of the population."

⁴⁹ The San Francisco Department of Public Health has been in the forefront of support for needle exchange programs, allocating a significant portion of resources and expanding services to a greater extent than other cities in the US. The above recommendation was formulated prior to the current DPH budget and stands, in light of current allocations, as a recommendation to prioritize these services.

⁵⁰ Programs must be accessible and sensitive to the needs of female, male and transgender sex workers of diverse racial and ethnic backgrounds, including immigrants, youth as well as adults, pregnant women and people with HIV infection.

on request. Examine current international studies regarding drug substitutions and clinical provision of substances, and reduction in crime.⁵¹

IX. Ensure that drug treatment and harm reduction programs are accessible, including child care and gender-specific programs.

X. Explore alternatives to current drug policies.⁵²

⁵¹ See Appendix D. Health, Safety and Services: Needs Assessments: Harm Reduction: SAVIVE Clinical Trial.

⁵² See Appendix D.: Health, Safety and Services: Harm Reduction.

IV. Quality of Life Concerns

When the Task Force first convened, members pledged to remember that they were all part of the same community, all adversely affected by crime, drugs, litter and noise. The Task Force was the first opportunity for representatives from neighborhood and business groups to meet face to face with prostitutes and advocates. It was also the first opportunity to have an informed discussion involving public health and legal experts. Given the historical lack of communication, the Task Force is pleased at the full and frank airing of views.

Neighborhood and business association representatives expressed their concerns about drug paraphernalia and condoms left on the streets, congested traffic, excessive noise and other nuisances.⁵³ They sponsored two community fora: one for the Mission at Horace Mann Middle School, and one by the Polk Street Merchant's Association. At both fora, Task Force members answered questions, but more importantly, listened, as neighborhood residents expressed a wide range perspectives concerning street prostitution. Despite their concerns about noise, traffic, etc., most residents at these fora supported decriminalization or legalization of prostitution. They expressed frustration at the money spent on prostitution abatement which could not be used for much needed neighborhood improvements.⁵⁴

At the same time, the Task Force listened to testimony from sex workers who complained of abuse and violence from clients, street violence, attacks by men who target prostitutes, and even by the police.⁵⁵ It was very difficult to get such

⁵³ See Resource Library: Interim Report, Neighborhood Committee, Exhibit E.

⁵⁴ See Resource Library: Interim Report, Neighborhood Committee, Exhibits A & B

⁵⁵ See Appendix D.: Law and Law Enforcement: Police Misconduct Report. In March 1994 Officer Greg Breslin was charged with assaulting a prostitute. One police officer was recently thrown off the force for kidnapping and raping an employee of a massage parlor that lead to an investigation of most of the Tenderloin Task Force.

testimony because prostitutes were afraid of reprisals from police if they came forward. One forum was held at City Hall expressly for prostitutes. (See Appendix D.: Testimony). They testified about police misconduct and neglect. They uniformly expressed fear and frustration that when they are victims of crime the police do not work to protect them or to find the perpetrators.⁵⁶

Testimony regarding immigrants, African American and transgender women show that they are singled out for arrest, as well as abuse, including numerous reports of racist and homophobic verbal harassment.⁵⁷ Individuals who may be, may have been, or may appear to be prostitutes are detained and/or arrested when they simply leave their homes.⁵⁸

For prostitutes, being labeled as a criminal can mean that a woman may lose custody of her children, especially since there is a mandatory jail sentence on second conviction. Very often prostitutes "lead double lives," forced underground for fear of being evicted from their homes, losing their jobs, and the break-up of family and other relationships. Immigrants who work as prostitutes, particularly people of color, have fewer economic alternatives due to institutional racism and can face deportation if convicted of prostitution. Therefore they are unlikely to report violence against them.

Also,
Opatry, Dennis J. March 24, 1994. "Police Officer Charged with Kidnapping with Intent to Rape" and "San Francisco Cops Expand Probe in Sex Case"
[San Francisco Examiner](#)

Also,
Resource Library: Interim Report Legal Committee, Exhibits E. F. G & L

⁵⁶ See Appendix D.: Testimony.

⁵⁷ Hayes, Jeremy 1994 "Spread Your Legs, You're Under Arrest,"
[Gauntlet, Volume 1](#) pages 20-32.

⁵⁸ Investigation into Discrimination against Transgender People, San Francisco Human Rights Commission, September 1994.
Also,
[Yvonne Dotson Vs. Yee.](#) September 1995 prepared by Fania Davis.

Although pimping and pandering laws are ineffective and rarely used against those who exploit and abuse prostitutes, these charges are brought against prostitutes working together.⁵⁹ Women working in hotels are harassed by security guards. Landlords often refuse to rent to sex workers or overcharge for substandard accommodations. Sex workers who are found out may get evicted and end up working on the streets.

The majority of Task Force members came to the conclusion that decriminalization of prostitution was the best way to address the concerns of every constituency. Residents' valid concerns about quality of life, yet support for decriminalization, was a conflict more apparent than real. The conflict could be resolved by focusing on the complaints: not against prostitution itself, but by the perceived fallout or side effects of street prostitution. The best way to ameliorate poor neighborhood conditions and at the same time save the City money is to focus on the direct causes of the complaints and not on prostitution itself. Likewise, without undercover sting operations there would not be the same opportunity for police abuse and constitutional violations. If prostitutes knew they would not be arrested for reporting crime, they would not fear claiming their civil rights.

Unfortunately, no consensus was reached regarding mutually beneficial solutions.⁶⁰ After the Task Force had been meeting for nearly a year, six neighborhood/merchant organization representatives resigned following a Task Force vote in favor of decriminalization. It is clear from these differences that further work must be done to facilitate communication between those concerned with prostitution policy reform as it affects street activities. Further discussion and

⁵⁹ See Appendix D: Testimony.

⁶⁰ The Task Force invited a conflict resolution facilitator from Community Boards, a non-profit chartered by the city to mediate disputes. See Appendix C. Response of city officials to requests for information.

candid debate is clearly in order. It would be a shame to waste the progress made so far.

I. The Task Force recommends that the City encourage utilization of San Francisco's community conflict resolution program, Community Boards, to address local problems as they occur.

II. Recommendations in other sections also directly address quality of life concerns. See, e.g., Legal Recommendation III., that the city respond directly to neighborhood concerns by utilizing Municipal Codes (infractions), which address issues of noise, littering and trespassing, and other constitutionally supportable municipal codes; and Legal Recommendation VI. that the City not investigate and prosecute prostitution crimes where there are no accompanying complaints.

III. Parental custody should not be denied solely on the basis of sex worker status.⁶¹

⁶¹ In the context of Family Court, activities which are legal, particularly sexual activities, are generally accepted as relevant to custody determinations. However, the mere status of being a sex worker should not preclude custody being awarded.

V. Labor Policy Issues

Strip clubs and erotic performance theaters, erotic film and video production, porn magazine publishing and phone sex switchboards, commercial parties and sex clubs-- are all part of the legal sex industry in San Francisco.⁶²

Current regulatory practices in these legal venues provide owners and management undue leverage over workers, and the number of complaints from workers grows. In one recent case, CAL OSHA investigations and Labor Commission decisions supported dancers' claims regarding working conditions. (See Appendix D.)⁶³ Current lack of oversight has also resulted in local theater owners declaring that workers are independent contractors, when they are, by legal definition, employees.

Although stigma and bias allow abuse in these workplaces, employees are afforded the right of legal recourse and the right to pursue labor disputes. Labor disputes in this are precedent setting, as sex workers' rights are not expressly written in the law.

⁶² As prostitution is defined in the State Penal Code as "Any lewd act between persons for money or other consideration," some of the activities have been viewed by police as prostitution. In fact, periodically, in cities across the US, dancers are charged with prostitution. In January and February of 1985, the Market Street Cinema and the Mitchell Brothers were raided and performers were arrested, some on PC 647(a), and others on PC 647 (b). Numerous raids have taken place at clubs around the country including a raid of The Kit Kat Club in Sunnyvale in July 1994, in which dancers were charged with prostitution. Also, Spectator August - September 1994.

⁶³ A precedent setting case, Johanna Breyer and Laddawan Passar Vs. Popular Properties, 1993. Timothy M. Sakamaki of the Labor Commission in San Francisco ruled that the practice of charging stage fees is illegal.

The recommendations below apply to current legal sex trade venues including erotic performance clubs and theaters:⁶⁴

I. Establish a review program to assure that sex trade venues comply with fair practices including health and safety codes according to CAL OSHA; provision for sick leave; workers' compensation and disability insurance according to the labor commission; and other labor and safety regulations.⁶⁵

II. Ensure compliance with complaints filed with CAL OSHA and/or the Department of Public Health by ongoing monitoring of working conditions by the above agencies, as required by law.

III. Educate investigators from the Department of Fair Employment and Housing, as well as the Equal Employment Opportunity Center, to be sensitive to sex workers' issues.

IV. Performers should only be classified by management as independent contractors when the work performed fits into guidelines for independent contractors based on labor standards. If performers are working as employees, pay hourly wages and provide benefits. Dancers/performers should not be charged stage fees in order to work and management should not receive any percentage of dancer's earned gratuities in accordance with labor codes.

⁶⁴ Prostitutes throughout San Francisco work in 'de facto legalized' businesses, through studios and outcall services. Due to their illegal or quasi-legal status, these workers have no recourse against abuses by management. If prostitution was not defined as a crime, the recommendations below would provide recourse, and benefits and responsibilities applicable in any work situation would apply.

⁶⁵ The review program (comprised of individuals who work in a variety of sex trade venues as well as consultants in labor, health and safety fields) should investigate complaints including force, coercion and harassment, and ensure that there is no management retaliation in response to complaints.

V. The Bureau of Field Enforcement should be responsible for ongoing audits of erotic performance venues, in accordance with labor standards and regulations, to clarify employee status, and to ensure that dancers/performers are not charged illegal fees to work.

The following recommendations apply to independent contractors and self-employed people:

VI. Ensure the rights of sex trade workers to the same health insurance benefits as other self employed people, small business owners or independent contractors, the same right to police protection as other small businesses, and the right to join or form trade unions.

VII. Ensure those who provide direct contact and/or fantasy services the right to work from premises and the right to advertise.⁶⁶

The Fiscal Impact of The Sex Industry

A record of the economic impact of sex work on the City's economy should be documented in the City's financial records.⁶⁷ By omitting the record of this work, the contribution to survival of families and communities goes unrecognized and workplace safety, civil rights, protection from violence, disability and other issues for these sectors of the population are not addressed. By removing criminal sanctions, sex

⁶⁶ See Appendix D: Law and Law Enforcement: Decriminalization and Regulation: Australian Prostitution Act of 1992, page 3-6. Although aspects of this law are problematic, it serves as an example of a preliminary attempt to address one stated goal: "to promote the welfare and occupational health and safety of prostitutes." Regulations attempt to protect the privacy prostitutes working out of premises; also, zoning requirements for large establishments are not applicable to individual premises. Also, See Appendix D: Law and Law Enforcement: Bill to Decriminalise Prostitution

⁶⁷ Prostitution is recognized as productive work in the United Nations System of National Accounts (SNA) 1993 (Rachel West).

work would be recognized as work and the value of this work would be counted, in keeping with Task Force recommendations.⁶⁸

Although there is currently little documented economic information about the sex industry, a sample survey was conducted by one Task Force member indicating the exponential effects these earnings have on the City's economy.⁶⁹

⁶⁸ Estimates of numbers of persons working or who have worked as prostitutes vary widely, based on various factors including definitions of prostitution. A 1978 study of prostitution in San Francisco estimated that there are 4,000 prostitutes.

See,

Lynch, Theresa, and Neckes, Marilyn, "The Cost Effectiveness Of Enforcing Prostitution Laws," December 1978.

Unitarian Service Committee, and by the San Francisco Women's Jail Study Group, supported by a grant of the CETA and Mayor's Office. p.17

⁶⁹ St. Blaise, Vic "The Financial Impact of Prostitution in San Francisco- a sex worker's point of view" See Appendix D: Testimony.

VI. Immigration and Prostitution

Because of the threat of deportation or denial of citizenship, immigrants engaged in the sex industry are particularly vulnerable. Not only must they cope with the difficulties encountered by other sex workers such as the threat of arrest and violence, some may also face deportation from the Immigration and Naturalization Service.⁷⁰

Although recent international debate has focused much attention on forced trafficking and kidnapping, the abuse and exploitation of immigrants reported to the Task Force consisted of harassment by authorities and financial exploitation of immigrants and refugees including voluntary sex workers.⁷¹

One result of this pressure is that many immigrants engaged in the sex industry are reluctant to report abuses such as rape, robbery and other forms of violence, including illegal curtailment of their freedom of movement. For the same reasons, many such workers choose not to avail themselves of outreach programs on HIV/ AIDS prevention and similar services.⁷² By decriminalizing prostitution, some of these pressures might be mitigated or abated. (See Appendix D: Laws and Law Enforcement: Resolution for Decriminalization Regarding Immigrant Issues.)

⁷⁰ "Title 6 Exclusion and Deportation Public Law 601, 104 STAT.5067-5068"

According to outreach worker Dawn Passar, recent INS campaigns have begun to target immigrant women. "Police go their homes with guns, and don't even speak their language, so the police can't even explain why they are being arrested. Even those who are only suspected of being prostitutes, may be deported based on suspicion, rather than conviction."

⁷¹ According to National Organization For Women representative Teri Goodson, anti-trafficking laws work against the welfare of prostitutes. "As prostitution is illegal and grounds for deportation, immigration officials investigating circumstances of suspected kidnapping or forced labor, though unable to prosecute well protected traffickers, are often likely to arrest and deport immigrant women despite reprisals upon her return. Laws against forced labor, violence, blackmail and other abuse should be used to combat abusive traffickers".

⁷² Immigrants should have access to services on the same bases as other residents. See Health, Safety and Services Committee Recommendations.

The Task Force recommends that the City lobby the INS to:

I. Grant asylum or immunity to those who are brought into the United States for the purpose of prostitution and protect them from INS prosecution or punishment.⁷³ Further, it is recommended that resources be provided for employment, housing, social programs, legal and other resources to enable immigrants and refugees to leave exploitative or abusive situations, and to have the option of returning to their country or staying in the United States without threat of prosecution.⁷⁴

II. Remove Prostitution-related crimes from the INS list of moral turpitude offenses that require exclusion or deportation. The Task Force recommends that the City take this position and further, lobby federal legislators to amend federal policy.

⁷³ In 1992, the San Francisco Board of Supervisors approved precedent setting legislation that declared San Francisco a "City of Refuge" in order to protect non-citizens from the deportation by the INS.

⁷⁴ Chew, Lin Lap Foundation Against Trafficking In Women January 1996 Page 3: "Allocate resources to provide comprehensive programs designed to heal and rehabilitate into society victims of trafficking including through job training, legal assistance and confidential health care and take measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims...."

VII. Youth Issues and Policy

Youth are involved in prostitution for a wide variety of reasons, similar to adults. These reasons are compounded because of legal restrictions based on age, especially in employment and housing. Because of labor laws, established to "protect" those under the age of eighteen, most youth are not legally able to work more than part time. For young people who are living on their own and can legally work only part time at a job that pays minimum wage and offers little in terms of skill development and advancement, there are few opportunities for survival other than working in the underground economy, which includes sex work.

Many young people are forced to survive on their own to escape violent and abusive family situations. The dangers they face on the streets may be less than the dangers they face at home. While on their own, there is a total lack of affordable housing options for those under the age of eighteen, unless they are emancipated. In order to become emancipated, however, it is necessary to prove a legal means of supporting oneself. Recommendations below emphasize strategies to reduce the harm done by legal restrictions and an arcane system of "child care."⁷⁵ (See Appendix D: Testimony: Youth Policy Statement.)

While we realize that our society has a long way to go to adequately address civil and human rights for young people, and young women in particular because of the disparity in social services for youth,⁷⁶ and that limited financial resources compete for the most effective interventions, the Task Force submits the following recommendations:

⁷⁵ Velasco, Nelly. 1994. "Position Paper regarding the Issues Related to Young Women Working in the Sex Trades" written for the Street Survival Project, page 1.

"Adults must stop pathologizing risks taken by youth, which are a part of life." According to Velasco, one recent survey of services found that there were only four emergency shelter beds specifically available for young women under 18 in San Francisco. Providing affordable housing could reduce reliance on survival sex for youth.

⁷⁶ Ibid.

The Task Force recommends that the City focus on independent housing, job development and specific shelter alternatives for incarcerated young women.⁷⁷ Provision of services, not detention, should be the first priority for youth. Therefore, the Task Force recommends that the City:

I. Establish a mandate to preserve and expand youth employment. Young people need to be paid a living wage (\$8.00 - \$10.00 an hour, minimum) and have opportunities to develop job skills beyond the service economy. Equal opportunity programs should also include youth.

II. Ensure that services available for adults are also available for youth.⁷⁸ These should include housing, health care including pre-natal care and abortions, rape and abuse counseling, drug treatment and detox programs, methadone programs, needle exchange, and self-defense training. Accessibility of services should not be dependent on parental consent.

III. Increase the number of Public Defenders available to people under the age of eighteen.

IV. Increase services available to young women in order to end the gender disparity in social services for youth.⁷⁹

V. Increase the number of shelter beds for young women in the juvenile court system who cannot be released to parents or guardians.⁸⁰

⁷⁷ Although an increase in services is needed for young people in general, there are significantly less services and resources available to young women.

⁷⁸ Currently there are a range of programs and services that specifically exclude youth.

⁷⁹ Velasco states that currently, services for girls, including girls who have engaged in survival sex or worked in the sex industry, are woefully underfunded.

VI. Increase funding for peer-run support groups for youth in the sex industry, including transitional services and programs to provide alternatives.

VII. Youth with experience in prostitution or survival sex should be employed as peer educators, consultants and speakers.

VIII. The San Francisco Youth Commission should investigate the efficacy of child labor laws, age of consent laws, and emancipation. Youth with experience in sex work should be included in the Commission. City departments need to be responsive to the recommendations of this board.

⁸⁰ According to an interview with Patricia Lee, Public Defender at Youth Guidance Center, there are two shelter beds for girl and six for boys.

VIII. Implementation of Recommendations

Although six representatives of merchant/neighborhood associations of the Task Force were in opposition to decriminalization, the majority of Task Force members reached consensus on recommendations submitted.

The Task Force recognizes that some issues remain controversial. Therefore the Task Force is committed to pursuing mechanisms to resolve the controversies. Likewise many uncontroversial recommendations, particularly those concerning social services, should be implemented immediately. For these reasons the Task Force recommends the establishment of an ongoing committee to resolve these controversies, pursue long term goals, and to monitor conditions within the sex industry on an immediate basis.

I. The San Francisco Task Force on Prostitution recommends that the Board of Supervisors establish a staffed committee to:

- o Implement the Task Force recommendations**
- o Investigate arrest procedures, conditions of incarceration, suspected incidents of misconduct, and civil rights violations of prostitutes and suspected prostitutes, in conjunction with the Human Rights Commission and the Office of Citizen Complaints.⁸¹**
- o Provide a venue through which sex workers can file anonymous grievances.**

⁸¹ Victims of proven violations should be compensated and offenders should be subject to appropriate disciplinary measures.

Appendix A.

Task Force Membership and Establishing Legislation

Task Force Membership and Participants

Asian AIDS Project
Dominic Perez

Center For Southeast Asian Refugee Resettlement
Adam Tau

Commission on The Status of Women
Carol Leigh

*** Concerned Business Persons of the Tenderloin**
Phil Faight

COYOTE
Margo St. James

Department of Public Health, AIDS Office
Marshia Herring

*** Hayes Valley Neighborhood Association**
Patricia Walkup

National Lawyers Guild
Celia McGuinness

National Organization for Women
Teri Goodson

Mayor's Office
Anne Kronenburg

*** Mission District Residents For Safer Streets**
Ron Norlin

*** Nob Hill Safe**
Jeanne Powell

Office of the District Attorney
Terri Jackson, Ronan Byrne

Office of Supervisor Terence Hallinan
Andy Ilves, Jean-Paul Samaha

Office of the Public Defender
Grace Suarez

Police Department
Lt. Joeseeph Dutto, Mike Curran, Gary Pisciotto

*** Polk Street District Merchant's Association**
Gary Zodrow

Project Aware
Judith Cohen

*** Save Our Streets**
Art Conger

Street Survival Project/Proactive Youth Coalition
Nelly Velasco, Kelly O'Neil

US PROStitutes Collective
Rachel West

Ex-officio members
Office of Senator Milton Marks
Carol Stuart

The City Attorney

Community representatives:
Gloria Lockett
Mai Nhung Le
Kiki Whitlock
Vic St. Blaise

At-large representatives:
Mike Stepanian
Christine Tayluer
Christine Beatty

* Task Force participants resigned January 1995.

Community participants and consultants: Erin Crane, Elizabeth Bernstein, Carol Draizen, Daisy Ford, Lori Nairne, Bruce Widern, Jim Thorne, Odessa Smith, Priscilla Alexander, Louis Kremnitzer, Johanna Breyer, Caroline Lee, Mara Torres, Michael Kim, Dawn Passar, Roe Johnson, Victoria Schneider, Rita Adrian, Nicole Eslamieh, Felicia Ward, Kristen Bachler and Christina Gomez.

The San Francisco Task Force on Prostitution would like to thank the following people for their contributions to the Final Report:

Carol Leigh, Celia McGuinness, Carol Stuart, Rachel West, Dr. Judith Cohen, Margo St. James, Carlton Smith, Pat Whelehan, Ph.D., Vic St. Blaise, Dawn Passar, Elizabeth Bernstein, Teri Goodson, Lori Nairne, Cynthia Chandler, Nelly Velasco, Kelly O'Neil, Mai Nhung Le, Roe Johnson, Kiki Whitlock, Johanna Breyer, Gloria Lockett, Belma Gonzalez, Larry Grant, Christine Tayleur and James Geffert.

LEGISLATION TO ESTABLISH SAN FRANCISCO TASK FORCE ON
PROSTITUTION

Passed and amended November 1993 - March 1994

ESTABLISHING A TASK FORCE ON PROSTITUTION TO MAKE
RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON LEGISLATION
AND POLICY REFORM AS RELATED TO THE CITY'S PROSTITUTION LAWS
AND POLICIES, AND SHALL INCLUDE REPRESENTATIVES FROM THE
MAYOR'S OFFICE. NEIGHBORHOOD GROUPS, LAW ENFORCEMENT
AGENCIES, PUBLIC HEALTH AGENCLES, SOCIAL SERVICE AGENCIES, CITY
DEPARTMENTS AND COMMISSIONS, WOMEN'S RIGHTS ADVOCATES AND
IMMIGRANT AND PROSTITUTES' RIGHTS GROUPS.

WHEREAS, San Francisco residents, business owners and neighborhood
organizations have expressed legitimate concerns about the impact of prostitution
on their neighborhoods; and

WHEREAS, the criminal nature of prostitution has led to widespread beatings and
the victimization of prostitutes and has attracted crimes including robberies. drug
use and violence to San Francisco streets and neighborhoods; and

WHEREAS, the continuing economic recession, the lack of police resources and the
overcrowding jails make it difficult if not impossible to deal with prostitution as a
traditional law enforcement issue; and

WHEREAS, the issue of prostitution is complex and involves social, economic and
legal factors; and

WHEREAS, it is incumbent upon local government to explore alternatives to dealing
with prostitution as it effects San Francisco's economy, the public health and safety
of its residents and the city's overall quality of life; and

WHEREAS, a public forum is needed to allow for debate and the sharing of
information about issues related to prostitution and to study alternatives to the
present system; now, therefore be it

RESOLVED, That the Board of Supervisors of The City and County of San Francisco
hereby establishes the Prostitution Task Force, consisting of () members who shall
represent a broad cross section of San Francisco with regard to race, ethnicity,

gender, gender identity, age, socioeconomic status and sexual orientation; and be it
FURTHER RESOLVED, That the Task Force shall include representatives from The
Mayor's Office, neighborhood groups, law enforcement agencies, public health

agencies, social service agencies, City Departments and Commissions, women's
rights advocates and immigrant and prostitute rights groups; and, be it

FURTHER RESOLVED, That the Task Force shall be established and appointed by
the Board of Supervisors as follows:

One (1) member representing the San Francisco Chamber of Commerce;

Four (4) members representing neighborhood groups, one each from Save Our Streets (SOS); Polk Street Merchants Association; Mission District Residents for Safer Streets; Union Square Merchants Association;

Three (3) members representing diverse prostitute populations and advocacy groups, including one representative of COYOTE; one of the U.S. Prostitutes' Collective, and one transgender representative;

One (1) member representing gay male prostitutes;

One (1) member representing outreach to the African American community;

Two (2) members representing AIDS/HIV prevention and education service providers with experience in outreach to prostitute populations, one each from Asian AIDS Project and Project Aware;

One (1) member representing the Center For Southeast Asian Refugee Resettlement;

One (1) member representing the National Organization for Women (NOW);

One (1) member representing the National Lawyer's Guild;

(Amended later*)

One (1) African American representative from Glide Memorial Church with experience in doing prevention and intervention work with the prostitute population;

One (1) member representing the Proactive Youth Coalition;

One (1) at-large member from the legal community;

One (1) at-large unspecified member;

One (1) member representing the Office of Supervisor Terence Hallinan; and, be it FURTHER RESOLVED, That the said Task Force shall include additional members to be appointed as follows:

One member representing the Mayor's Office, to be appointed by the Mayor;

One member representing the Police Department, to be appointed by the Chief Police;

One member representing the Department of Public Health, to be appointed by the Director of the Department;

One member representing the Public Defender's Office, to be appointed by the Director of the Department;

One member representing the District Attorney's Office, to be appointed by the District Attorney;

One member representing the City Attorney's Office, to be appointed by the City Attorney;

One member representing The Commission on The Status of Women, to be appointed by the Director of the Department; and be it

FURTHER RESOLVED, That the Mayor and the Departments are to make their appointments and advise the Board of Supervisors of same within fifteen (15) days after this resolution takes effect;

San Francisco Task Force on Prostitution
Final Report
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The Board shall also make their appointments within thirty (30) days after taking effect; and, be it

FURTHER RESOLVED, That the Task Force shall adhere to Robert's Rules of Order and shall conduct its business consistent with the Provisions of the Ralph M. Brown Act, which governs certain procedures related to the conduct of meetings by public bodies; and, be it

FURTHER RESOLVED, That a quorum for the conduct of business by the Task Force shall be the presence of at least () members of the Task Force; and, be it

FURTHER RESOLVED, That any member of the Task Force who, following their appointment, misses more than two unexcused regularly scheduled meetings shall be deemed to have resigned from the Task Force, and a new members shall be appointed to the vacated position; and, be it

FURTHER RESOLVED, That in the event of a vacancy, a successor shall be appointed to fill the vacancy consistent with the process and requirements to appoint the previous appointee; and, be it

FURTHER RESOLVED, That the Mayor, the Board of Supervisors and the various City Departments shall provide in-kind professional and administrative staff to the Task Force; and, be it

FURTHER RESOLVED, That members of The Task Force shall not be compensated, nor shall they be reimbursed for expenses. The Task Force may seek funds from public and private agencies to carry out its functions. Any money received other than from the City shall be deposited with the City Treasurer; and, be it

FURTHER RESOLVED, That the said Task Force shall do a comparative study of current prostitution laws and regulations in other cities in the United States and internationally; and, be it

FURTHER RESOLVED, That the said Task Force shall explore all options for reform on prostitution laws, social services and law enforcement practices in San Francisco; and, be it

FURTHER RESOLVED, That said Task Force shall present an initial progress report six months after its inception to the Board of Supervisors and shall provide a written report of its recommendations to the Board of Supervisors one year from the date of their initial meeting, and that this Task Force shall be automatically dissolved upon receipt of said report.

Appendix D: Exhibits: Contents

1. Laws and Enforcement

A. Current Law and Policy: Reports

1. Condoms as Evidence in Prostitution Related Cases-Letter from Senator Milton Marks to District Attorney Arlo Smith, requesting that Smith cease the use of condoms as evidence (March 9, 1994); SF NOW re: revising current policy (March 31, 1994); Special Resolution passed by the San Francisco Task Force on Prostitution (May 10, 1994); "Condoms As Evidence of Prostitution," Legislation passed by the Board of Supervisors urging the District Attorney and the Police Commission to cease confiscating condoms and using them as court evidence for prostitution related offenses; Letter From District Attorney Arlo Smith to Director of Public Health, Dr. Sandra Hernandez agreeing to cease the use of condoms as evidence (September 6, 1994).
2. Legal Elements of Penal Code Section 647 (B); Penalties; Mandatory HIV Testing requirements.
3. The "New" Prostitution: New Cases Nationwide; criminal charges under general criminal law; HIV specific offenses; Increases in Grading and Sentencing; Quarantining; Testing cases; Civil penalties.
5. Municipal Codes- Reports regarding unconstitutionality and preemption of prostitution related municipal codes 215, 225 and 240; MIR report submitted by Gordon Park-Li containing statistical data on disposition and dismissal rate of municipal codes. (April 25, 1994 and July 6, 1994)
6. Massage Licenses- Report re: applications for and revocation of permits; massage parlor regulations, state laws effecting eligibility for licenses, individual and massage business licensing, municipal codes regulating massage businesses; Letter from Police Chief Ribera regarding police jurisdiction of massage parlor licensing.
7. Repeal of Mandatory Minimum Jail Sentences in Solicitation Cases, resolution to sponsor legislation to amend PC 647 adopted by the California Bar Association (1994).

8. Condoms: Not Admissible to Prove Prostitution-Related Crimes- resolution to sponsor legislation to amend the evidence code adopted by the California Bar Association (1994).

B. Arrest and Incarceration Statistics

9. San Francisco Police Department Arrest Reports, January to December 1994. On file with the Police Department. Adults and Juveniles Arrested by Race and Sex; Prostitution-Related Arrests in comparison with other Part II crimes. 1994.

10. Special Investigations Bureau, Vice Crimes Division, Monthly Report, December 1994.

11. Arrests From January - September 1991 and 1992, comparing Prostitution and other Part II crimes.

12. Arrest Statistics for the years 1991, 1992 and 1993; Division of Labor in Vice Crimes Unit; Training of police officers to deal with prostitution.

13. "Number of African American Inmate in SF JAIL Passes 1,000 Mark," Sheriff's Department Report and Statistics, July 1993.

C. Law Enforcement

14. Yvonne Dotson Vs. Yee , September 1995 prepared by Fania Davis, attorney for Yvonne Dotson, in accordance with settlement against San Francisco in which Federal Court Judge Marilyn Patel of the Ninth Circuit Court directed Dotson to submit recommendations for the Police Department that address police misconduct.

15. Police Response to Reports of Violence Against Prostitutes, a report from Maggie's Toronto Prostitutes' Community Service Project, September 25, 1992.

16. Report Presented to San Francisco Board of Supervisor's Hearing on Police Accountability, April 11, 1995

D. Decriminalization and Regulation

17. Resolution for Decriminalization of Prostitution Regarding Immigrant Issues, submitted by Asian AIDS Project.

18. Background Paper: The Regulation of Prostitution City of Toronto, Public Health Department April 24,1995.

19. "Australian Capital Territory Prostitution Act 1992" to regulate certain aspects of prostitution and "Brindal Bill" to decriminalise prostitution.

20. Registration, Mandatory Testing, and Health Certificates: The Record by Priscilla Alexander

2. Health, Safety and Services

1. "Needs Assessment For At Risk Populations," Report Prepared for Community Outreach Project For Female Identified Sex Industry Workers," November 1995.

Attachments

A. Sexual Health/HIV and STD's

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B. Harm Reduction

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C. Multiple Issues

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5. "Agencies Targeting Outreach and Services To Sex Workers" *Community Outreach Project*, 1995.

6. "Resources For Substance Abusers (Adults and Youth)" *Perinatal Services-Department of Public Health*, 1993.

3. Testimony

1. Transcript from Hearing, City Hall, November 29, 1994
2. Written Testimony, submitted November 28, 1994
3. Written Testimony, submitted December 1995
4. Position Paper regarding the issues relating to young people working in the sex trades- Nelly Velasco
5. Financial Impact of Prostitution in San Francisco- Vic St. Blaise
6. Issues For Male Sex Workers- Vic St. Blaise
7. The Crookedest Game of All: Stud Poke Her- Margo St. James
8. Between The Rapists and The Police- Carol Leigh

4. History

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6. Bibliography of excerpts from historic texts, newspapers, etc., regarding the history of Prostitution in San Francisco, available in Task Force Resource Library.

5. Index

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